

---

*An Account of Mr. H----s's  
Election at Winchester Col-  
lege, last May; In a Letter  
to a Person of Quality in  
London.*

---

S I R,



*New Coll. Oxon.  
Jan. 12. 1704.*

**Y**OU was pleas'd to think, that my Ac-  
quaintance at *Winchester College*, and the  
Relation we here have to it, might put  
me into a Capacity of giving you a particular  
Account of Mr. *H----s's* Election; which, you  
tell me, has been so represented in Town, as to  
occasion some Reflection upon those, who were  
concern'd in it.

You will always find me ready to show my  
Respects to you, and to do right to a Society, to  
which I am so much oblig'd. I do therefore  
send you such an Account as I have been able to  
get of what has hitherto pass'd in that Election;

A

and

and have added those Clauses of the Statutes which are referr'd to in this Paper, that you may judge whether they are rightly apply'd.

Soon after the Living of *Chiddingfold* fell, it was known, that the Dean of *S---m*, in whose Gift it was, intended to present such a Person to it, as he should chuse to make his Son-in-law; and several were offer'd, who desir'd the Honour of that Character. But among all that apply'd, no one was so fortunate as Mr. *H----s*, who being well related, and capable of making a suitable Settlement, was thought to deserve more than the Living of *Chiddingfold* with the Dean's Daughter.

It was therefore agreed, that the Dean should make the farther Addition of his Fellowship in *Winton College* to his Daughter's Fortune; and tho', when this Match was transacted, Mr. *H----s* was neither of Age for Priests Orders, nor compleat Graduate in the University, and consequently (a) not capable of a Living, or a Fellowship; yet it was so concerted, that the Living should not be lost for want of a timely Qualification, and that the Dean should keep his Fellowship, till Mr. *H----s* was in Orders, and had compleated his *Bachelour of Arts* Degree.

---

(a) Rub. 8. de Elect. Sociorum. — *Nominent, & eligant Presbyterum, vitæ laudabilis, morum & conditionis ac conversationis honestæ, in Temporalibus providum, in spiritualibus circumspèctum, & in facultate aliquâ, si talis haberi poterit, graduatum.*

Whilst



Whilst Mr. *H----*s was qualifying himself for the Performance of Articles, the Dean made pressing Application to the Warden, and Fellows, for the Change of his Fellowship; and tho' that Society is known to have a true Value for him, yet his Request did not find so ready, or so general a Compliance there as he expected.

The Dean was told, That the Young Gentleman to whom he desir'd to resign, was but newly gone from the School, and had his Profession yet to chuse; That his manner of Life and Behaviour was gay and free, and seem'd rather to determine him to a Civil or Military, than an Ecclesiastical Employment: That whatever his Studies had been, during the little time which he had spent in the University, 'twas believ'd, that Divinity had been none of them, nor were they suppos'd to have been of so serious a kind, as to make his Conversation acceptable to Men of Years and Sobriety.

The Dean, who thought these no considerable Objections against the Favour desir'd, would sometimes wonder, that the College should be more nice in the Choice of a Fellow, than the Church was in providing for the Ministry, that a Fellowship should be thought a greater Trust, than a Living; and that those should be Reasons to keep Mr. *H----*s out of the Society, which no Bishop would judge sufficient to hinder his

Institution. But then he was farther told, that tho' Parochial Cures were Sacred Trusts, and ought to be fill'd with the greatest Caution; yet there was a Difference between Them and a Fellowship, and less requir'd for one than for the other; because the Qualifications, express'd in the Statute for a Fellow, were (a) higher than those of the Canon for Institution, and a comparative Fitness was insisted on in the Choice of the former, which was not necessary to the latter; besides, that a Fellowship was to be dispos'd of upon a strict (b) Oath, which a Living was not.

'Twas conceived therefore, that whatever Liberty either He might have to Present, or the Bishop to Institute, a Fellow had less to Elect; and tho' there might be some Instances when Livings were less freely bestow'd, yet 'twas a thing without Precedent, that a Fellowship should pass with a Daughter, and be made part of a Marriage Settlement.

Notwithstanding what was said, the Dean was still of Opinion, that the Change he propos'd was very reasonable, and thought himself ill us'd, because it found so much Opposition.

---

(b) Rub. 8. *Præstito per ipsorum Presbyterorum quemlibet Jramento, quod cessantibus, amore, odio, favore, partialitate, & affectione sinistris quibuscunque, tales in hac parte nominabunt, & eligent, quos pro honore, utilitate, & commodo dicti Collegii, magis profuturos crediderint.*



This was the unpromising Prospect of the Dean's Design, in *April* 1704. when some Symptoms appear'd of a Distemper, which, if not soon stop'd, might bring his Life into Danger, and for which he was advis'd to seek an early Remedy at *Bristol*. He accordingly went thither in *May* following, but left a Resignation of his Fellowship in the Warden's hands, desiring him, when he saw a convenient time, to offer it to the Society.

The Dean had not been long at *Bristol*, from whence there came no good accounts of his Health, when the Warden, finding a proper Time, did signifie to the Fellows then upon the Place, that they should meet the next day, to consider of the Dean's Resignation. The number of those Fellows was but four, and some of the other six were at a great Distance, so that 'twas not possible for them to appear at so short a Warning: however the four met the next day; when the Warden declar'd the Dean's Place void by his Resignation, which he then offer'd, and propos'd the filling of it immediately.

The Resignation of the Dean, which the Warden produc'd, was not upon Stamp'd Paper, nor attested by a Notary; and 'twas therefore desir'd, that tho' Resignations were of ill Fame, and had very lately and justly found great Discountenance, yet if the Dean thought fit to leave  
the

the Society that way, there might be a more solemn, and sufficient Evidence of his Intention.

'Twas said, that the Dean was oblig'd by Oath, to signifie his Purpose of leaving the Society (c) four Months at least ; and if he knew it earlier, (d) six Months before he left it : That the Dean had been so far from giving any such Notice hitherto, that, upon the ill Success of his Request, he had declar'd that he would not part with his Fellowship upon any other Terms ; wherefore the Fellows thought themselves oblig'd to insist upon having such due Notice of the Dean's leaving the Society, as the Statute directed ; and were earnest with the Warden, not to execute a Resignation, which seem'd to them not well advis'd , and which might subject the Dean to a Breach of Oath, and other Inconveniencies.

They said farther, that the Dean's Illness at Bristol was the only Reason to be conceiv'd for

---

(c) Rub. 8. *Furet etiam unusquisque sociorum Presbyterorum in admissione sua in Colleg' prædict' ; quod per quatuor menses ante recessum suum Custodem ejusdem Collegii, aut ipso absente Vicecustodem de ipsius recessu præmuniat, vel faciat præmuniri, ut sic de alio Presbytero idoneo, & honesto, ad deservendum in Capellâ prædictâ tempore congruo possit debite provideri.* (d) Rub. 23. *Statuentes præterea quod quicumque Presbyterorum sociorum prædict' : volens ex causis aliis à dicto Collegio voluntarie finaliter recedere, Custodem vel Vicecustodem, per sex menses ante recessum suum, si sibi de ipsius recessu per tantum tempus constiterit, præmuniat, sub ipsius debito Juramento, ut interim de alio Presbytero idoneo, loco ejusdem debite valeat provideri.*



so hasty a Proceeding : but that made rather against it, because Men were never to be more cautiously dealt with, than when their Lives were in Danger ; and it seem'd less charitable to engage the Dean in such a Practice at that time, as might either disturb his Peace, or stain his Memory.

These Objections against the Form and Season of the Dean's Resignation were thought to be offer'd, only in order to gain time. The Warden said, that the Resignation was made to him, and was such as he was satisfy'd with ; and tho' he should be very tender in subjecting the Dean to a Breach of Oath, yet he conceiv'd him in no Danger on this Occasion ; because his Oath oblig'd him to declare his Purpose of leaving the Society, to himself, or the Subwarden only ; and ~~he~~ must do the Dean the right to say, That he ~~had~~ been more than four Months appriz'd of it.

~~he~~ The Fellows in answer to this said, That they conceiv'd themselves to be Judges equally with ~~him~~, both of the Cause for which a Fellow left ~~the~~ College, and of his Way of leaving it : That ~~what~~ever Vacancies the Warden should at any ~~time~~ think fit to declare, yet if they did appear ~~to~~ them unstatutable, they should look upon ~~themselves~~ bound not to fill them ; and as he had ~~express'd~~ himself satisfied with the Dean's Resignation, so they should, and did expect equal Satisf-

**Satisfaction.** They said moreover, that it was a Surprize to hear, that the Warden should have had so long notice of the Dean's Purpose to leave the Society, and yet not have communicated it to the Fellows, who might then have been prepar'd to elect, and (*d*) in order to which Preparation, the Statute directed that so long Notice should be given ; so that he seem'd to excuse the Dean, by blaming himself ; and, however the Dean might be discharg'd of the Breach of his Oath, yet, if the Warden proceeded hastily to an Election, there would be danger of his own incurring it.

The Warden, notwithstanding what had been said, declar'd the Dean's Fellowship void, and then proceeded to fill it.

But, in stay to this, the Fellows did represent to the Warden, That however dissatisfied they were with the manner of the Dean's Resignation, they were much more with the Proposal made to proceed to an Election upon it. They said, there being but four Fellows then present, they could not, as they conceiv'd, proceed to any Collegiate Act ; much less to one so solemn as the Election of a Fellow, which requir'd, as they thought, the Presence of the whole Body, and was to be done with their Joint, and serious Deliberation.

The



The particular Reasons that were offer'd against proceeding to an Election with four Fellows only, were taken from the Tenor of the Statutes in General, from the particular Statute of Election, and from the Practice of the College.

The Fellows said, That the Warden and major part of the Fellows were the College, and had the Trust of it. That the Founder, throughout the whole Body of his Statutes, had very expressly provided, that Matters of Consequence should be transacted by the Warden (e) and major part of the Fellows. That all Elections of Officers, such as (f) Subwardens, (f) Bursars, (f) Sacrist, &c. which are chosen to serve only for one Year, were directed to be made by the Warden, and at least a major part; and that no

---

(e) Rub. 7. de Officio Cust. Statuentes insuper quod lites graves vel ardua negotia, quibus verti poterit ipsius Collegii grave damnum, sive prejudicium absque omnium dicti Collegii Capellano- rum sociorum, sive majoris partis eorundem consilio & assensu, incipere vel aggredi non debet. (f) Rub. 10. de Vicecustod. & Sacrista. Statuimus, &c. quod sit unus Vicecustos, de numero sociorum dictorum 10 Presbyterorum, ad officium hujusmodi per Custodem, & eosdem socios, seu majorem partem eorundem quolibet anno eligendus, sive nominandus. Rub. 10. de Sacrista. Libros insuper, &c. volumus esse in Custodia unius de reliquis sub formâ prædictâ eligendi, & deputandi. (f) Rub. 11. de Bursariis. Statuimus quod de Presbyteris sociis perpetuis ipsius Collegii, per Custodem & eosdem socios perpetuos, vel majorem partem eorundem, annis singulis eligantur & deputentur duo socii fideles & discreti ad Burs. Officium.

(g) Act should be valid, and oblige the Fellows which was not done in this Manner with their joint Approbation. So that if there were any Omission, or Ambiguity in any part of the Statutes, where the Fellows were interested, it ought reasonably to be supply'd by Others, that were more exprefs, and by the general Design and Scope of All. This, they said, was a reasonable Construction of any Statute, and what had been usually practis'd. For in those Statutes, where Mention was made of the Fellows only, the Usage had been to call in a major part of them at least; the (h) Schoolmaster, (h) Usher, and (h) Outrider of the College (who is a Person join'd with the Warden in his Progresses) are always chosen by the Warden, and major part of the Fellows; though the Statutes that relate to those

---

(g) Rub. 33. *Quod Custos habeat requirere consensum sociorum. Et quod in & super præmissis communiter, vel per maiorem partem ipsorum deliberatum fuerit & consensum, roboris habeat firmitatem. Ordinatio autem sive dispositio in & super præmissis alio modo facta, pro nullâ penitus habeatur.* (h) Rub. 12. *de Magistro Informatore & Hostiario. Statuimus, &c. quod in dicto nostro Collegio sit perpetuis futuris temporibus unus Magister Informator in Grammaticâ, &c. per Custodem, & socios ipsius Collegii ordinandus, seu providendus.* (h) *Ordinantes præterea quod in dicto Collegio semper sub Magistro Informatore sit alius Instructor, &c. per Custodem & socios prædictos ordinandus, &c. quem Hostiarium volumus nuncupari.* (h) Rub. 36. *de Computo Ministrorum. Statuimus, &c. quod singulis annis statim post Autumnum fiat circuitus & progressus per ipsum Custodem, & aliquem sociorum discretum, aptum, & ad hoc per socios Presbyteros eligendum, & deputandum.*

Offices,



Offices, say only that they shall be appointed by the Warden and Fellows.

The Fellows said moreover, that by the Canon Law, by the Rules of which the Statutes of the College were fram'd, the *major pars Collegii*, was the Body, and by the *Socii* in any Statute, so many must be meant, as were a major part of them. *Decretal. de Elect. Tit. 6. Chap. 5 8.*

And in the Preamble to the Statute of the 33 Hen. 8. Chap. 27. it is affirmed, *That the More Part of any Society is by the Common and Statute Laws of this Realm, deem'd to be the Body;* and, as any Act done by the More part is declar'd good by that Statute, so it is imply'd, that an Act done by a Less part, is not.

The Fellows said therefore, That if there had been no Statute relating to the Election of Fellows, or if the Words of that Statute were not fully expressive of the Fellows Interest in Elections; yet, by the Founder's Intention, and the Practice of the College; by Canon, Common and Statute Law, the Concurrence of a major part must be necessary to any Collegiate Act, and no Election could be Rightly made, and Valid, without Them.

But then, they said, that there was a (i) Statute of Elections, and by that Statute the Fellows had a very Full and Express Interest given them in the Choice. For it is said, that the Choice of a Fellow should be, *per Custodem, & socios omnes & singulos tunc presentes*; and the same Statute afterwards said, That, when the Choice was made, *Custos & socii prædicti*, shall certify the Election to the Person chosen, under their Common Seal; which could never be set, but in the Presence of the Warden, and all the Fellows.

So that it seem'd plain to them by this Statute, that the Founder must intend that all the Fellows

---

(i) Rub. 8. de Electione Sociorum. *In quo quidem Collegio quotiescunque locum aliquem de dicto Presbyterorum Sociorum numero vacare contigerit, Custos, & Presbyteri Socii perpetui, omnes, & singuli tunc presentes, citius quo poterunt in Capellâ dicti Collegii pro novo socio Presbytero providendo conveniant. — Et idem Custos & Presbyteri alium Presbyterum, vel Presbyteros loco deficientis Presbyteri, vel Presbyterorum hujusmodi, nominent & eligant. — Quibus quidem nominatione, & electione, sic factis, prædicti Custos & Presbyteri Socii Collegii propè Winton, citius quo commode fieri poterit, infra sex dies nominationem eandem immediate sequentes Presbyteris Sociis sic nominatis, & electis, seriatim ordine illo, quo fuerint nominati, & prout opus fuerit pro suppletionem numeri prædicti, per ipsorum literas, sigillo communi dicti Collegii propè Winton sigillatas, intimare celeriter teneantur. — Furabantque nominati & electi hujusmodi ad sancta Dei Evangelia antequam in Collegium nostrum Winton, realiter admittantur sub hæc formâ. Ego N. Presbyter, &c. — Volumusque quod de Furamento prædicto fiat statim Instrumentum Publicum, signo & subscriptione alicujus Notarii Publici munitum, — quod penes Custodem dicti Collegii perpetuo remaneat sub custodia diligenti.*

should



should be present at Elections, and that therefore no Election could be statutable, that was made by a less Number.

The Warden told the Fellows, that by the Clause in the Statute, *omnes & singuli socii tunc presentes*, those Fellows only were meant, who were upon the Place: and therefore if there had been but One, or No Fellow at home, when he call'd the Election, he had Power by that Statute to chuse with that Fellow only, or without any Fellow at all.

To this the Fellows answer'd, That if by the *tunc presentes*, those Fellows only were meant who were upon the Place, the Words *omnes & singuli* were of no Signification. That when the Founder would express the Fellows upon the Place, his Phrase was not *tunc*, but *in Collegio presentes*, and that therefore by the *omnes & singuli tunc presentes*, in this Statute must be meant a Presence of the Fellows *in propriis personis*, and not by Proxy only, or Consent.

But that which put the Sense of this Clause beyond Doubt, was this; that the *omnes & singuli tunc presentes*, in the first part of the Statute, were the very same Fellows, the *Prædicti*, who, by the latter part of it, were obliged to set the Seal; and it being confess'd that

no

no (k) Number of Fellows less than all, had Power to set the Seal; no Number less than that, could be meant by the *omnes & singuli tunc præsentes*.

To this the Warden reply'd, That, if the Seal was necessary in all Elections, the Presence of all the Fellows would be so too; but, as the Seal had been often omitted, so he conceived there was a Liberty by the Statute to make use of it, or not, as there shou'd be Occasion. For the Statute says, that the Seal shall be set, *prout opus fuerit, &c.* But there being no occasion for a Letter to intimate the Election to the Person chosen, if he was upon the Place; there could, consequently, be no Occasion of such a number of Fellows, as were requisite to give the Seal to such Letter of Intimation.

To this the Fellows answer'd, That the Clause in the Statute, *prout opus fuerit*, could not be understood to refer to the Letter of Intimation itself, whether it should issue or not, as there should be occasion; but to the Form of it only; for the Founder, supposing that more Fellows than one might be elected at the sametime, does provide that the Form of the Letter of Intimation

---

(k) Rub. 33. de Sigillo & Arcâ Communi. *Statuimus, &c. quod nihil cum communi Sigillo hujusmodi sigilletur nisi in præsentia Custodis, & omnium Presbyterorum Sociorum, ac de consensu & voluntate omnium, seu majoris partis eorundem.*



shall vary as the number of Persons elected differs ; and shall be such as will specify the Vacancies which the several Persons are to supply, and the Order wherein they are to succeed.

They said farther, That whoever the Person to be Elected was, and how near soever he might be, it was not impossible but the Choice might fall upon one at some distance ; and then the Letter of Intimation, tho acknowledged necessary, could not issue ; because no other Fellows, but those who chose, could by the Statute signify the Election : And therefore, however surely concerted this Election was, yet, if the Warden proceeded, there might be some hazard at least of not observing the Statute of Elections ; which, 'twas sure, the Founder could never intend, and was what the Warden and Fellows should think themselves oblig'd to avoid.

The Fellows did indeed confess, that there might be Instances of Elections, that had been made by a number of Fellows, less than All, and when therefore the Letters of Intimation had fail'd. The Apprehension which the College was some time under of Court Recommendations (to which the Wardens ever since Queen *Elizabeth's* Time, for a particular Favour then done them, have shewn the utmost Respect) had been a Reason, why Elections were hastily concluded, and not in the Form that the Statute directed ;

rected ; but as there was no fear of Court Interpositions under the present gracious Government, so there could be no Pretence to induce the Fellows to break their Rule at this time, which, whatever the Consequences were, ought always to have been observ'd.

The Fellows said farther, that in those hasty Elections, such a Regard was had to the Body, that the Majority of the Fellows were always consenting, if not present at the Elections ; but they were sure, no Instance could be given in the worst Times, when an Election was made by a minor part of the Fellows, against the known, and expers Declaration of all the rest.

This Affirmation of the Fellows concerning the Practice in Elections, gave the Warden occasion to say, That it did appear by the College Register, that Fellows had been chosen by a minor part ; that Practice was the best Interpretation of a Statute, and that therefore he was inclin'd to understand it in such a Sense, as might favour the Usage, and not cast a Blemish upon their Predecessors.

The Fellows reply'd, That it would be a Satisfaction to them to have the Register produc'd, and Time given to consult it: but they did not conceive, that any Argument could be drawn from it, about the Practice in Elections ; because it was not a Register of Elections, but of Admissions



missions only ; which being, by Direction of Statute, made by an Actuary, upon the Fellows taking the Oath, were enter'd on Record. But, as neither the Presence of the Warden, or any Fellow of the College was made necessary at Admissions, so it might frequently happen, that many were present at Elections, whose Names are not found in the Register of Admissions ; and the things being of different kinds, and often done at different times, little Evidence could be had from the Record of the one, concerning the Practice in the other.

The Fellows, therefore, were willing to hope, that their Predecessors had been careful Observers of the Statute of Elections ; neither could it appear to them by their Register, that they were not. However were it certain, that former Elections had been made by a *Minor Part*, yet, whilst the Statute was so plain, They could not think themselves at Liberty to follow, in that Point, a Practice, which seem'd to them express against the Letter of one Statute, and the Sense of many.

For these several Reasons, and for the Peace of the College, which, 'twas fear'd, would be endanger'd by so hasty an Election, the Warden was humbly mov'd to defer proceeding any farther at that time, and not to put the Fellows under the unwelcome necessity of leaving him in

an Election, wherein they could not with good Conscience assist.

Notwithstanding what was said, the Warden declar'd his Resolution to proceed : And then two of the four Fellows before-mention'd, protesting against any Act, that should be made in Prejudice of their Right, and the Rights of the Body, withdrew. Whereupon the Warden, with the two remaining Fellows, made choice of Mr. *H---s*, and admitted him immediately. The Gentlemen who left the Chapel at the Election of Mr. *H---s*, were Mr. *Th---t*, and Mr. *B---r*, as they omitted nothing, which could with Decency be offer'd, in stay of so hasty a Choice ; so their Endeavours, however fruitless, to assert the Rights of their Body, have found a thankful Acknowledgment from the Fellows, and will be remember'd to their Honour : neither will the other Gentlemen be forgotten, who concurr'd with the Warden in this Election.

It was indeed very surprizing to find two of so different a Make, and Pretences, agreeing in this Particular. For one of those Gentlemen, Mr. *P---r*, being chosen into his Fellowship by the Warden's Interest, has seem'd to retain, ever since his Admission, the most grateful Sense of the Favour, and has Voted, and Acted in all Cases, as the Warden was pleas'd to direct. And, whatever his other Obligations have been, he has  
never



never shewn the least Inclination in any one Instance, to dissent from the Warden's Opinion.

But Dr. *Eyre*, as he did not owe his Preferment to the Warden, so neither had he paid him any great Observance since his obtaining it: He has, from the very time of his coming into the Society, complain'd of the great Abuses of Statute, and the many Encroachments made by Wardens upon the Rights and Privileges of the Fellows; he has spoken loudly against the Warden's Share in the Government, and Revenue of the College; against his Power and Allowances; and upon all Occasions, where the Interest of the Body was concern'd, expressed himself with so much Freedom and Warmth, as to be thought less careful of offending, than he needed to have been. It was therefore some Surprize, to find a Gentleman of the Dr's Professions, complying with the Warden in this Election, who had constantly differ'd from him in all the others, that for 20 Years past had been made in the Society.

As difficult as it seem'd to be to account for this Behaviour in the Doctor, it was not less so, to reconcile the Part which the Warden had in this, to that which he had acted in former Elections. For as he had in most Cases expressed a deference to the majority of the Fellows, so particularly in Elections; he had taken care to give Notice of the Vacancy, and allow sufficient time

for the distant Fellows to appear ; that their Consent at least might be had, if either want of Health, or some other like Reason, would not permit them to be present at the Choice. And 'tis certain, there is no Instance of an Election before this, made in his Time, without the actual Presence or Consent of the whole, or major part of the Society. So that it was a great Surprize to find the Warden interesting himself so far in this Election ; and forfeiting that good Esteem of his Body, which he gain'd to himself upon other Occasions.

The Forwardness of his Inclination to oblige the Dean, carried him ('tis believ'd) beyond his former Lengths, and prevail'd with him to make so bold, and so hasty a step. But it is his ill Fortune not to please the Dean in what he has done ; for however desirous the Dean may be that Mr. *H---*s should succeed him, he does by no means approve of this manner of Proceeding ; and much rather wishes that Mr. *H---*s were not of the Society, than brought into it in so irregular a way. He is willing indeed to hope that the Fellows will not insist upon the Nullity of the Election, but is fully of Opinion, they should have ample Security that no like Invasion shall be ever hereafter made upon their Rights ; and that if the Warden can not be prevail'd with to offer them this Satisfaction, there should be some way found to oblige him to give it.

We



We indeed of this Place, who may be allow'd to be better acquainted with Mr. H---s, than they at *Winchester* as yet are, do imagine, that his Dexterity in Elections, and other useful Qualities, recommended him to the Warden's Favour; and that being a Person of an Observable Gratitude, the Warden might think, that he could no where place a Favour more properly, or where he might expect a more certain Return, both of Duty and Service.

These are the several Particulars worth your knowing in Mr. H---s's Election.

Soon after it was over, several of the Fellows went in a Body to the Warden, and complain'd of the Undueness of it; they were earnest with him to declare it void, and proceed to another, upon better Deliberation; but not being able to prevail, they enter'd their Protest against it before an Actuary, and Appeal'd to a Competent Judge.

Before the Fellows lodg'd their Appeal, they were desirous to end the Dispute within themselves, and therefore propos'd a Reference of it to such Persons, as the (l) Statute had provided

---

(l) Rub. 6. De Electione Custodis. — In Juramento Custodis. *Item si per me, vel occasione mei, aliqua dissensionis materia, iræ, vel discordiæ, in dicto Collegio propè Winton' (quod absit) suscitata fuerit, si super ipsâ materiâ, per socios Capellanos, & Magistrum Informatorem finis rationabilis factus non fuerit; tunc ordinationi, dispositioni, dicto, laudo & arbitrio Domini Episcopi*  
for

for the composing of all Differences, that should happen between the Warden and Fellows. But this being rejected by the Warden, they have thought themselves obliged to prosecute their Appeal as the Statute directed: And tho' they have met with some unexpected Obstructions, and the great Age of our Visitor forbids any troublesome Sollicitation; yet they have that Confidence in his Honour and Goodness, as to hope in some seasonable time for that Justice from him, which their Cause may deserve. But should they be prevented by his Death, their Hope is, that the See of *Winchester* may still fall into an hand ready to receive and encourage Applications of this kind, and to do Right to the Inferiour Members of a Society, against an Oppressive and Arbitrary Governour.

The last Resort in Appeals of this kind has usually been, and properly is, to the Queen in Council: Should this Matter be carried so far, you will be capable, Sir, of doing great Service to a Body, for which you have been pleased to express a Concern, if the Justice of the Cause, as here stated, shall deserve your Favour.

*I am Sir, &c.*

*Winton' qui pro tempore fuerit, &c. finaliter stabo, &c. & quod statuerit, ordinarerit & definirerit, in ea parte fideliter observabo, & eidem cum effectu parebo, sine contradictione quacunque.*

**F I N I S.**



